IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1810 OF 2004

Shri.Manohar Sitaram Mhatre ..Petitioner

Vs.

State of Maharashtra & Anr. ..Respondents

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Mr. P.M.Pradhan for Mr.Pitale for Petitioner
Mr. E.R.Naik for Respondent no.2
Mr. B.H.Mehta A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : AUGUST 22,2005

P.C.

1. Heard the learned advocate for the petitioner i.e. original accused no.5, the learned advocate for respondent no.1-original complainant and the learned A.P.P. for the State.

2. Rule. By consent, rule is made returnable forthwith.

3. The petitioner is seeking quashing of process issued against him by the learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai in c.C.No.

195/S/2002. In the said case process was issued under Sections 138 to 141 of Negotiable Instruments Act and under Section 420 of IPC.

4. In the said case, cheque was issued by accused no.1 i.e. Co-Operative Housing Society. Accused nos.2, 3 and 4 are office bearers of the said society. It is contended by the learned counsel for the petitioner that he was not the member of the society at any point of time. He has further submitted that the petitioner has not entered into any business dealing with the complainant on account of which cheque in question came to be issued.

5. It is an admitted fact that cheque was issued by accused no.1 Society and that the petitioner-original accused no.5 was not a member of the said society at any point of time. The learned advocate for the respondent-original complainant states that they do not wish to pursue the complaint as far as the present petitioner is concerned and the complainant will pursue the prosecution only in respect of the other accused.

6. In view of the facts and circumstances of this case and the statement made on behalf of the complainant, the proceedings relating to C.C.No.195/S/2002 pending before the learned Metropolitan Magistrate, 12th Court, Bandra,Mumbai are quashed qua the petitioner only. It is made clear that the proceedings would go on against the rest of the accused persons.

5. Rule made absolute accordingly. Petition is disposed of.

[V.K.TAHILRAMANI,J.]